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THE SPIRIT

OF

K.
JOHN LOCKE.



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CHAPTER I.

OF THE BEGINNING OF POLITICAL SOCIETIES.

MEN being all free, equal, and independent,
no one can be put out of this condition,
and subjected to the political power of another, with-
out his own consent. When any number of men
have, by the consent of every individual, made a
community, they have, thereby, made that com-
munity one body, with a power to act as one body;
which is only by the will and determination of the
majority: For that which directs any community,
being only the consent of the individuals of it, and
it being necessary, to that which is one body, to
move one way, it is necessary the body should move
that way whither the greater force carries it; which
is, the consent of the majority: Or else, it is im-
possible it should act or continue one body, one
community; which the consent of every individual
that united into it, agreed that it should. For, if
the consent of the majority shall not, in reason, be
received as the act of the whole, and bind every in-
dividual, nothing, but the consent of every indivi-
dual,

dual, can make any thing to be the act of the whole. But, such a consent is next to impossible ever to be had, if we consider the infirmities of health, and avocations of business, which, in a number, though much less than that of a commonwealth, will necessarily keep many away from the public assembly. To which, if we add the variety of opinions, and contrariety of interests, which unavoidably happen in all collections of men, the coming into society, upon such terms, would be only like Cato's coming into the theatre—only to go out again. Whosoever, therefore, unite into a community, must be understood to give up all the power, necessary to the ends for which they unite into society, to the majority of the community, unless they expressly agreed in any number greater than the majority. Thus, that which begins, and actually constitutes any political society, is nothing but the consent of any number of freemen capable of a majority to unite and incorporate into such a society.

Those who would persuade us, that, *by being born under government, we are naturally subjects to it*, and have no more any title or pretence to the freedom of the state of nature, have no other reason to produce for it, but only, because our fathers or progenitors passed away their natural liberty, and, thereby, bound up themselves, and their posterity, to a perpetual subjection to the government which they themselves submitted to. It is true, that whatever engagements or promises any one has made for himself, he is under the obligation of them; but cannot, by any compact whatsoever, bind his children or posterity: For his son, when a man, being altogether as free as the father, any act of the father can no more give away the liberty of the son, than it can of any body else. He may, indeed, annex such conditions to the land, he enjoyed as a subject of any commonwealth, as may oblige his son to be of that community,

munity, if he will enjoy those possessions which were his father's; because, that estate being his father's property, he may dispose of it as he pleases. And this has generally given occasion to mistake in this matter; because commonwealths, not permitting any part of their dominions to be dismembered, nor to be enjoyed by any but those of their community; the son cannot ordinarily enjoy the possessions of his father, but under the same terms his father did, by becoming a member of the society; whereby, he puts himself presently under the government he finds there established, as much as any other subject of that commonwealth. And thus, the *consent of freemen born under government*, which only makes them *members of it*, being give: separately in their turns, as each comes of age, and not in a multitude together, people take no notice of it; and, thinking it not done at all, or not necessary, conclude they are naturally subjects as they are men. But, submission to the laws of any country, living quietly, and enjoying protection under them, *no more makes a man a member of that society*, than it would make a man a subject to another commonwealth, in whose family he found it convenient to abide for some time; though, whilst he continued in it, he were obliged to comply with the laws, and submit to the government he found there.

CHAPTER II.

OF THE ENDS OF POLITICAL SOCIETY AND GOVERNMENT.

THE great and chief end of men's uniting into commonwealths, and putting themselves under government,

vernment, is the preservation of their property.* To which, there should be an *established*, settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies: *Secondly*, A *known and indifferent judge*, with authority to determine all differences according to the established law: And, *Thirdly*, A power to back and support the sentence when right, and to give it due execution. But, tho' men entrust to certain agents, the power of fulfilling all these necessary duties, yet, this power being constituted by them, *can never be supposed to extend farther than the common good*; but is obliged to secure every one's property, by providing for those three things above mentioned. And so who ever has the legislative or supreme power of any commonwealth, is bound to govern by established standing laws, promulgated and known to the people, and not by extemporary decrees; by *indifferent* and upright judges, who are to decide controversies by those laws; and to employ the force of the community at home, *only in the execution of such laws*, or abroad, to prevent or redress foreign injuries, and secure the community from inroads and invasion. And all this to be directed to no other end, but the *peace, safety, and public good* of the people.

CHAPTER III.

OF THE LEGISLATIVE POWER.

THE majority having the *whole* power of the community naturally in them, may employ all that power in making laws for the community from time to time, and executing those laws by officers of their own appointing. The great end of men's entering into

* By Property, is meant Life, Liberty, and Estate.

into society, being the enjoyment of their properties in peace and safety; and the great instrument and means of that being the laws established in that society, the first and fundamental positive law of all commonwealths is the establishing of the legislative power; as the first and fundamental natural law, which is to govern even the legislative itself, is the preservation of the society, and (as far as will consist with the public good) of every person in it.—This legislative is not only the supreme power of the commonwealth, but sacred and unalterable in the hands where the community have placed it; nor can any edict of any body else, in what form soever conceived, or by what power soever backed, have the force and obligation of a law, which has not its sanction from that legislative which the public has chosen and appointed: For, without this, the law could not have that, which is absolutely necessary to its being a law—the consent of the society; over whom no body can have a power to make laws, but by their own consent, and by authority received from them: And, therefore, all the obedience, which, by the most solemn ties any one can be obliged to pay, ultimately terminates in this supreme power, and is directed by those laws which it enacts: Nor can any oaths, to any foreign power whatsoever, or any domestic subordinate power, discharge any member of the society from his obedience to the legislative, acting pursuant to their trust; nor oblige him to any obedience contrary to the laws so enacted, or farther than they do allow—it being ridiculous to imagine one can be tied ultimately to obey any power in the society, which is not the *supreme*.

Though the legislative, whether placed in one or more, whether it be always in being, or only by intervals, though it be the supreme power in every commonwealth; yet it is not, nor can possibly be absolutely arbitrary over the lives and fortunes of

the people: For, it being but the joint power of every member of the society given up to that assembly, which is legislator, it can be no more than those persons had in a state of nature before they entered into society, and gave up to the community; for nobody can transfer to another more power than he has in himself; and nobody has an absolute arbitrary power over himself, or over any other, to destroy his own life, or take away the life or property of another. A man, as has been proved, cannot subject himself to the arbitrary power of another; and having, in the state of nature, no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind: This is all he doth, or can give up to the commonwealth, and, by it, to the legislative power, so that the legislative can have no more than this. Their power, *in the utmost bounds of it, is limited to the public good of the society.* It is a power, that hath no other end but preservation, and, therefore, can never have a right to destroy, enslave, or designedly to impoverish the subjects. The obligations of the law of nature cease not in society, but only, in many cases, are drawn closer, and have, by human laws, known penalties annexed to them, to enforce their observation. Thus the law of nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men's actions, must, as well as their own and other men's actions, be conformable to the law of nature, *i. e.* to the will of God, of which that is a declaration; and the fundamental law of nature being the preservation of mankind, no human sanction can be good or valid against it.

The legislative, or supreme authority, cannot assume to itself a power to rule by extemporary arbitrary decrees, but is bound to dispense justice, and decide

decide the rights of the subject by promulgated standing laws, and known authorised judges: For all the power the government has, being only for the good of the society, as it ought not to be arbitrary and at pleasure, so it ought to be exercised by established and promulgated laws: that both the people may know their duty, and be safe and secure within the limits of the law; and the rulers, too, kept within their bounds, and not be tempted, by the power they have in their hands, to employ it to such purposes, and by such measures, as they would not have known, and own not willingly.

The supreme power cannot take, from any man, any part of his property, *without his own consent*:—For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires, that the people should *have* property; without which, they must be supposed to lose that, by entering into society, which was the end for which they entered into it—*Too gross an absurdity for any man to own.* Men, therefore, in society, having property, they have such a right to the goods, which, by the law of the community, are theirs, that *nobody hath a right to take their substance, or any part of it, from them, without their own consent.* Without this they have no property at all; *for I have truly no property in that which another can by right take from me, when he pleases, against my consent.* Hence, it is a mistake to think, that the supreme or legislative power of any commonwealth *can do what it will*, and dispose of the estates of the subject *arbitrarily*, or take any part of them at pleasure. This is not much to be feared in governments where the legislative consists wholly, or in part, in assemblies which are variable, whose members, upon the dissolution of the assembly, are subjects under the common laws of their country, equally with the rest. But, in governments, where the legislative is in one
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lasting assembly, always in being, or in one man, as in absolute monarchies, there is danger still, that they will think themselves to have a *distinct interest* from the rest of the community; and so will be apt to *encrease their own riches and power, by taking what they think fit from the people*: For a man's property is not at all secure, though there be good and equitable laws to set the bounds of it between him and his fellow-subjects, if he, who commands those subjects, have power to take, from any private man, what part he pleases of his property, and use and dispose of it as he thinks good.

It is true, governments cannot be supported without great charge, and it is fit every one, who enjoys his share of the protection, should pay, out of his estate, his proportion for the maintenance of it.—*But, still it must be with his own consent, i. e. the consent of the majority; giving it either by themselves, or their representatives chosen by them: For if any one shall claim a power to lay and levy taxes on the people, by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government.* For what property have I in that, which another may by right take, when he pleases, to himself?

The legislative cannot transfer the power of making laws to any other hands; for it being but a delegated power from the people, they who have it, cannot pass it over to others. The people alone can appoint the form of the commonwealth, which is, by constituting the legislative, and appointing in whose hands that shall be.

These are the bounds, which the trust, that is put in them by the society, and the law of God and nature, have set to the legislative power of every commonwealth, in all forms of government. *First,* They are to govern by promulgated established laws, not to be varied in particular cases, but to have one rule

rule for rich and poor, for the favourite at court, and the country man at plough. *Secondly*, These laws also ought to be designed for no other end ultimately, but *the good of the people*. *Thirdly*, They must not raise taxes on the property of the people, *without the consent of the people*, given by themselves or their deputies. *Fourthly*, The legislative neither *must nor can transfer* the power of making laws to any body else, or place it any where, but where the people have placed it.

CHAPTER IV.

OF THE LEGISLATIVE AND EXECUTIVE POWER OF THE COMMONWEALTH.

THE legislative power is that, which has a right to direct how the force of the commonwealth shall be employed for preserving the community and members of it. But because those laws which are constantly to be executed, and whose force is always to continue, may be made in a little time, therefore there is no need that the legislative should be always in being, not having always business to do. And because it may be too great a temptation to human frailty, apt to grasp at power, for the same persons, who have the power of making laws, to have also in their hands the power to execute them, whereby they may exempt themselves from obedience to the laws they make, and *suit the law, both in its making and execution, to their own private advantage*; and, thereby, come to have a *distinct interest from the rest of the community, contrary to the end of society and government*. Therefore, in well-ordered commonwealths, where the good of the whole is so considered, as it ought, the legislative power is put into the hands of
divers

divers persons, who, duly assembled, have a power to make laws; which, when they have done, being separated again, they are themselves subject to the laws they have made; which is a new and near tie upon them, to take care that they make them for the public good.

But because the laws, that are at once, and in a short time made, have a constant and lasting force, and need a perpetual execution, or an attendance thereunto; therefore it is necessary there should be a power always in being, which should see to the execution of the laws that are made, and remain in force. And thus the legislative and executive power come often to be separated.

CHAPTER V.

OF THE SUBORDINATION OF THE POWERS OF THE COMMONWEALTH.

THOUGH in a constituted commonwealth, standing upon its own basis, and acting according to its own nature, that is, acting for the preservation of the community, there can be but *one supreme power*, which is the legislative; to which all the rest are, and must be subordinate: Yet, the legislative being only a delegated power to act for certain ends, there remains still *in the people a supreme power to remove or alter the legislative*, when they find the legislative act *contrary to the trust reposed in them*. For all power given with trust for the attaining an end, being limited by that end, whenever that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and *the power devolve into the hands of those that gave it, who may place it anew where they shall think best for their safety and security*. And thus the community

community perpetually retains a supreme power of saving themselves from the attempts and designs of any body, even of their legislators, whenever they shall be so foolish, or so wicked, as to lay and carry on designs against the liberties and properties of the subject. For no man, or society of men, having a power to deliver up their preservation, or, consequently, the means of it, to the absolute will and arbitrary dominion of another; whenever any one shall go about to bring them into such a slavish condition, they will always have a right to preserve what they have not a power to part with; and to rid themselves of those who invade this fundamental, sacred, and unalterable law of self-preservation, for which they entered into society. And thus the community may be said, in this respect, to be *always the supreme power*.

In some commonwealths, where the legislative is not always in being, and the executive is vested in a single person, who has also a share in the legislative, there that single person, in a very tolerable sense, may also be called supreme: Not that he has in himself all the supreme power, which is that of law-making; but because he has in him the supreme execution, from whom all inferior magistrates derive all their several subordinate powers, or, at least, the greatest part of them. Having also no legislative superior to him, there being no law to be made without his consent, which cannot be expected should ever subject him to the other part of the legislative, he is properly enough, in this sense, supreme. But, yet it is to be observed, that though oaths of allegiance and fealty are taken to him, it is not to him as supreme legislator, but as supreme executor of the law, made by a joint power of him with others; allegiance being nothing but an obedience according to law, which, when he violates, *he has no right to obedience*, nor can claim it otherwise than as the public person vested with the power of the law, and
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So is to be considered as the image, phantom, or representative of the commonwealth, acted by the will of the society, declared in its laws; and thus he has no will, no power, but that of the law. But, when he quits this representation, this public will, and acts by his own private will, he degrades himself, and is but a single private person without power, and without will, that has any right to *obedience*; the members owing no *obedience* but to the public will of the society.

It may be demanded here, What if the executive power, being possessed of the force of the commonwealth, shall make use of that force to hinder the *meeting* and *acting* of the legislative, when the original constitution, or the public exigencies require it? I say, using force upon the people without authority, and contrary to the trust put in him that does so, is a state of war with the people, who have a right to *reinstate their legislative in the exercise of their power*: For having erected a legislative, with an intent they should exercise the power of making laws, either at certain set times, *or when there is need of it, when they are hindered by any force from what is so necessary to the society, and wherein the safety and preservation of the people consists, the people have a right to remove it by force.* In all states and conditions, the true remedy of *force* without authority, is to oppose *force* to it.

Things of this world are in so constant a flux, that nothing remains long in the same state. Thus people, riches, trade, power, change their stations; flourishing mighty cities come to ruin, and prove, in time, neglected desolate corners, whilst other unfrequented places grow into populous countries, filled with wealth and inhabitants. But things not always changing equally, and private interest often *keeping up customs and privileges, when the reasons of them are ceased*, it often comes to pass, that in governments,

vernments, where part of the legislative consists of representatives chosen by the people, that, in tract of time, this representation becomes very unequal and disproportionate to the reasons it was at first established upon: *To what gross absurdities the following of custom, when reason has left it, may lead, we may be satisfied, when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheep-cote, or more inhabitants than a shepherd, is to be found, sends as many representatives to the grand assembly of law-makers, as a whole county, numerous in people, and powerful in riches: This strangers stand amazed at, and, every one must confess, needs a remedy.*

That "The good of the people is the supremelaw," is so just and fundamental a rule, that he, who sincerely follows it, cannot dangerously err. For it being the interest, as well as intention of the people, to have a *fair and equal representative*, whoever brings it nearest to that, is an undoubted friend to, and establisher of the government, and cannot miss the consent and approbation of the community. The power of erecting new corporations, and therewith new representatives, carries with it a supposition, that, in time, the measures of representation might vary, and those places have a just right to be represented which before had none; and, by the same reason, those cease to have a right, and be too inconsiderable for such a privilege, which before had it. 'Tis not a change from the present state, which, perhaps, corruption or decay has introduced, that makes an inroad upon the government, but the tendency of it to injure or oppress the people, and to *set up one part or party, with a distinction from, and an unequal subjection of the rest.* Whatsoever cannot but be acknowledged to be of advantage to the society, and people in general, upon just and lasting measures, will always, when done, justify itself; and whenever the people shall

chule their representatives upon just and undeniably equal measures, suitable to the original frame of the government, *it cannot be doubted to be the will and act of the society, whoever permitted or caused them so to do.*

CHAPTER VI.

OF CONQUEST.

THOUGH governments can originally have no other rise than that before mentioned, nor polities be founded on any thing but the consent of the people, yet, such have been the disorders ambition has filled the world with, that in the noise of war, which makes so great a part of the history of mankind, this consent is little taken notice of: And, therefore, many have mistaken the force of arms for the consent of the people, and reckon conquest as one of the originals of government. But conquest is as far from setting up any government, as demolishing an house is from building a new one in the place. Indeed, it often makes way for a new frame of a commonwealth, by destroying the former; but, without the consent of the people, can never erect a new one. That the aggressor, who puts himself into the state of war with another, and unjustly invades another man's right, can, by such an unjust war, never come to have a right over the conquered, will be easily agreed by all men, who will not think that robbers and pirates have a right of empire over whomsoever they have force enough to master; or that men are bound by promises, which unlawful force extorts from them. Should a robber break into my house, and, with a dagger at my throat, make me seal deeds to convey my estate to him, would this give him my title?—Just such a title, by his sword,
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has an unjust conqueror, who forces me into submission. The injury and the crime is equal, whether committed by the *wearer of a crown*, or *some petty villain*. The title of the offender, and the number of his followers, make no difference in the offence, unless it be to aggravate it. The only difference is, great robbers punish little ones, to keep them in their obedience; but the great ones are rewarded with laurels and triumphs, because they are *too big for the weak hands of justice* in this world, and have the power in their own possession, which should punish offenders. What is my remedy against a robber, that so broke into my house? Appeal to the law for justice. But, perhaps, justice is denied, or I am crippled and cannot stir, robbed and have not the means to do it. If God has taken away all means of seeking remedy, there is nothing left but patience. But my son, when able, may seek the relief of the law, which I am denied: He or his son may renew his appeal, till he recover his right. But the conquered, or their children, have no court, no arbitrator on earth to appeal to. Then they may appeal, as Jephtha did, to heaven, and *repeat* their appeal till they have recovered the *native* right of their ancestors, which was, to *have such a legislative over them, as the majority should approve, and freely acquiesce in*. If it be objected, This would cause endless trouble: I answer, No more than justice does, where she lies open to all that appeal to her.—He that troubles his neighbour without a cause, is punished for it by the justice of the court he appeals to: And he that appeals to heaven must be sure he has right on his side; and a right too that is *worth the trouble and cost of the appeal*, as he will answer at a tribunal that cannot be deceived, and will be sure to retribute to every one according to the mischiefs he hath created to his fellow-subjects; that is, any part of mankind. From whence, it is plain, that he

that conquers in an unjust war, can, thereby, have no title to the subjection and obedience of the conquered.

But, supposing victory favours the right side, let us consider a conqueror in a lawful war, and see what power he gets, and over whom. It is plain, he gets no power by his conquest over those that conquered with him. They that fought on his side cannot suffer by the conquest, but must at least be as much freemen as they were before. And, most commonly, they serve upon terms, and on condition to share with their leader, and enjoy a part of the spoil, and other advantages that attend the conquering sword; or, at least, have a part of the subdued country bestowed upon them. And the conquering people are not, I hope, to be slaves by conquest, and wear their laurels only to shew they are sacrifices to their leader's triumph. They, that found absolute monarchy upon the title of the sword, make their heroes, who are the founders of such monarchies, arrant *Draweanfirs*, and forget they had any officers and soldiers that fought on their side in the battles they won, or assisted them in the subduing, or shared in possessing the countries they mastered. We are told by some, that the English monarchy is founded in the Norman Conquest, and that our princes have thereby a title to absolute dominion: Which, if it were true (as by the history it appears otherwise) and that William had a right to make war on this island; yet his dominion by conquest could reach no farther than to the Saxons and Britons, that were then inhabitants of this country. The Normans that came with him, and helped to conquer, and all descended from them, are freemen, and no subjects by conquest; let that give what dominion it will. And, if I, or any body else, shall claim freedom, as derived from them, it will be very hard to prove the contrary: And, it is plain, the law,

law, that has made no distinction between the one and the other, intends not there should be any difference in their freedom or privileges.

I say, then, the conqueror gets no power but only over those who have actually assisted, concurred, or consented to that unjust force that is used against him: For the people having given to their governors no power to do an unjust thing, such as is to make an unjust war (for they never had such a power in themselves) they ought not to be charged as guilty of the violence and injustice that is committed in an unjust war, any farther than they actually abet it; no more than they are to be thought guilty of any violence or oppression their governors should use upon the people themselves, or any part of their fellow-subjects, they having impowered them no more to the one than to the other. Conquerors, it is true, seldom trouble themselves to make the distinction, but they willingly permit the confusion of war to sweep all together: But yet this alters not the right; for the conqueror's power over the lives of the conquered, being only because they have used force to do, or maintain an injustice, he can have that power only over those who have concurred in that force; all the rest are innocent; and he has no more title over the people of that country, who have done him no injury, and so have made no forfeiture of their lives, than he has over any other, who, without any injuries or provocations, have lived upon fair terms with him.

The people, who are the descendents of, or claim under those who were forced to submit to the yoke of a government by constraint, have always a right to shake it off, and free themselves from the usurpation or tyranny which the sword hath brought in upon them, till their rulers put them under such a frame of government as they willingly, and of choice consent to. Who doubts but the Grecian christians,

descendants of the antient possessors of that country, may justly cast off the Turkish yoke, which they have so long groaned under, *whenever they have an opportunity ? For, to do it, no government can have a right to obedience from a people who have not freely consented to it ; which they can never be supposed to do, till either they are put in a full state of liberty to chuse their government or governors, or, at least, till they have such standing laws, to which they have, by themselves or their representatives, given free consent ; and, also, till they are allowed their due property, which is so to be proprietors of what they have, that nobody can take away any part of it without their own consent, without which, men under any government are not in the state of freemen, but are direct slaves under the force of war.*

I will not dispute now, whether princes are exempt from the laws of their country ; but this I am sure, they owe subjection to the laws of God and Nature. Nobody, no power, can exempt them from the obligations of that eternal law. Those are so great, and so strong, in the case of *promises*, that omnipotency itself can be tied by them. *Grants, promises, and oaths, are bonds that hold the Almighty.* Whatever some flatterers say to princes of the world, who, altogether, with all their people joined to them, are, in comparison of the great God, but as a drop of the bucket, or a dust on the balance—inconsiderable—nothing !—Whence, it is plain, that shaking off a power, which force, and not right, hath set over any one, though it hath the name of rebellion, yet is no offence before God, but is that which *He allows and countenances*, though even promises and covenants, when obtained by force, have intervened.

CHAPTER VII.

OF TYRANNY.

As usurpation is the exercise of power, which another hath a right to ; so tyranny is the exercise of power beyond right, which nobody can have a right to. And this is making use of the power any one has in his hands, not for the good of those who are under it, but for his own private, separate advantage. When the governor, however entitled, makes not the law, but his will, the rule ; and his commands and actions are not directed to the preservation of the properties of his people, but the satisfaction of his own ambition, revenge, covetousness, or any other irregular passion. It is a mistake to think this fault is proper only to monarchies : Other forms of government are liable to it, as well as that. For, wherever the power, that is put in any hands for the government of the people, and the preservation of their properties, is applied to other ends, and made use of to impoverish, harass, or subdue them to the arbitrary and irregular commands of those that have it ; there it presently becomes tyranny, whether those that thus use it are one or many. Thus we read of the thirty tyrants at Athens, as well as one at Syracuse ; and the intolerable dominion of the *Decemviri* at Rome was nothing better.

Wherever law ends, tyranny begins, if the law be transgressed to another's harm ; and him whosoever in authority exceeds the power given him by the law, and makes use of the force he has under his command, to compass that upon the subject, which the law allows not, ceases in that to be a magistrate ; and, acting without authority, may be opposed, as any other man, who, by force, invades the right of another.—May the commands then of a prince be opposed ?

opposed? May he be resisted as often as any one shall find himself aggrieved, and but imagine he has not right done him? This will unhinge and overturn all politics; and, instead of government and order, leave nothing but anarchy and confusion. To this I answer, that *force* is to be opposed to nothing, but to unjust and unlawful *force*; whoever makes any opposition in any other case, draws on himself a just condemnation, both from God and Man: And, so no danger or confusion will follow, as is often suggested.

Supposing a government, wherein the person of the chief magistrate is sacred. Yet, this doctrine of the lawfulness of resisting all unlawful exercises of his power, will not, upon every slight occasion, endanger him, or embroil the government: For, where the injured party may be relieved, and his damages repaired by appeal to the law, there can be no pretence for force, which is only to be used where a man is intercepted from appealing to the law. For nothing is to be accounted hostile force, but where it leaves not the remedy of such an appeal; and it is such force alone, that puts him who uses it into a state of war, and makes it lawful to resist him. A man, with a sword in his hand, demands my purse in the highway, when, perhaps, I have not twelve-pence in my pocket. This man I may lawfully kill. To another, I deliver 100l. to hold only whilst I alight, which he refuses to restore me when I am got up again, but draws his sword to defend the possession of it by force, if I endeavour to retake it.—The mischief this man does me is a hundred, or possibly a thousand times more than the other perhaps intended me (whom I killed before he really did me any); and, yet I might lawfully kill the one, and cannot so much as hurt the other lawfully. The reason whereof is plain; because the one using force, which threatened my life, I could not have time to appeal

appeal to the law to secure it; and, when it was gone, it was too late to appeal. The law could not restore life to my dead carcase: The loss was irreparable; which to prevent, the law of nature gave me a right to destroy him, who had put himself into a state of war with me, and threatened my destruction. But, in the other case, my life not being in danger, I may have the benefit of appealing to the law, and have reparation for my loss that way.

But, if the unlawful act done by the magistrate be maintained (by the power he has got), and the remedy which is due by law be by the same power obstructed; yet, the right of resisting, even in such manifest acts of tyranny, will not suddenly, or on slight occasions, disturb the government: For, if it reach no farther than some private men's cases, tho' they have a right to defend themselves, and to recover, by force, what, by unlawful force, is taken from them; yet, the right to do so, will not easily engage them in a contest, where they are sure to perish; it being as impossible for one, or a few oppressed men, to disturb the government, where the body of the people do not think themselves concerned in it, as for a raving madman, or heady malcontent, to overturn a well-settled state—the people being as little apt to follow the one as the other.

But, if either these illegal acts have extended to the majority of the people, or if the mischief and oppression has lighted only on some few, but in such cases, as the precedent and consequences seem to threaten all; and they are persuaded, in their consciences, that their laws, and with them their estates, liberties, and lives, are in danger, and perhaps their religion too—how they will be hindered from resisting illegal force, used against them, I cannot tell. This is an inconvenience, I confess, that attends all governments whatsoever, when the governors have brought it to this pass, to
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be generally suspected of their people ; the most dangerous state which they can possibly put themselves in ; wherein they are the less to be pitied, because it is so easy to be avoided : It being as impossible for a governor, if he really means the good of the people, and the preservation of them, and their laws together, not to make them see and feel it, as it is for the father of a family, not to let his children see he loves, and takes care of them.

But, if all the world shall observe pretences of one kind, and actions of another, arts used to elude the law, and the trust of prerogative (which is an arbitrary power in some things left in the prince's hand to do good, not harm to the people) employed contrary to the end for which it was given : If the people shall find the ministers and subordinate magistrates chosen suitable to such ends, and favoured, or laid by, proportionably as they promote or oppose them : If they see several experiments made of arbitrary power, and the operators in it supported, as much as may be ; and when that cannot be done, yet approved still, and liked the better : If a long train of actions shew the councils all tending that way, how can a man any more hinder himself from being persuaded, in his own mind, which way things are going ; or from casting about how to save himself, than he could from believing the captain of the ship he was in was carrying him, and the rest of his company, to Algiers, when he found him always steering that course, though cross winds, leaks in his ship, and want of men and provisions did often force him to turn his course another way for some time, which he steadily returned to again, as soon as the wind, weather, and other circumstances would let him ?

CHAPTER

CHAPTER VIII.

OF THE DISSOLUTION OF GOVERNMENT.

BESIDES this overturning from without, governments are dissolved from within, when the legislative is altered. Civil society being a state of peace, amongst those who are of it, from whom the state of war is excluded by the umpirage which they have provided in their legislative, for the ending all differences that may arise amongst any of them, it is in their legislative, that the members of a commonwealth are united, and combined together into one coherent living body. This is the soul that gives form, life, and unity, to the commonwealth: From hence the several members have their mutual influence, sympathy, and connexion. And, therefore, when the legislative is broken, or dissolved, dissolution and death follows: For the essence and unity of the society consisting in having one will, the legislative, when once established by the majority, has the declaring, and, as it were, keeping of that will. The constitution of the legislative is the first and fundamental act of society, whereby provision is made for the continuation of their union, under the direction of persons, and bonds of laws, made by persons authorised thereunto, by the consent and appointment of the people, without which no one man, or number of men, amongst them, can have authority of making laws that shall be binding to the rest. *When any one, or more, shall take upon them to make laws, whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey; by which means, they come again to be out of subjection, and may constitute to themselves a new legislative, as they think best,*

best, being in full liberty to *resist* the force of those, who, *without authority*, would impose any thing upon them. Every one is at the disposal of his own will, when those who had, by the delegation of the society, the declaring of the public will, are excluded from it, and others usurp the place, who have no such authority or delegation.

This being usually brought about by such in the commonwealth who misuse the power they have, it is hard to consider it aright, and know at whose door to lay it, without knowing the form of government in which it happens. Let us suppose, then, the legislative placed in the concurrence of three distinct persons. *First*, A single hereditary person, having the constant, supreme, executive power, and, with it, the power of convoking and dissolving the other two within certain periods of time. *Second*, An assembly of hereditary nobility. *Third*, An assembly of representatives chosen, for a certain time, by the people.

Such a form of government supposed, it is evident, *First*, That when such a single person, or prince, sets up his own arbitrary will in place of the laws, which are the will of the society, declared by the legislative, then the legislative is changed: For that being, in effect, the legislative, whose rules and laws are put in execution, and required to be obeyed; when other laws are set up, and other rules pretended and enforced, than what the legislative constituted by the society have enacted, it is plain that the legislative is changed. Whoever introduces new laws, not being thereunto authorised by the fundamental appointment of the society, or subverts the old, disowns and overturns the power by which they were made, and so sets up a new legislative.

Secondly, When the prince hinders the legislative from assembling in its due time, or from acting freely, pursuant to those ends for which it was constituted, the legislative is altered: For it is not a certain

tain number of men, no, nor their meeting, unless they have also freedom of debating, and leisure of perfecting, what is for the good of the society, wherein the legislative consists. When these are taken away or altered, so as to deprive the society of the due exercise of their power, the legislative is truly altered; for it is not names that constitute governments, but the use and exercise of those powers that were intended to accompany them. So that he, who takes away the freedom, or hinders the acting of the legislative in its due seasons, in effect, takes away the legislative, and puts an end to the government.

Thirdly, When, by the arbitrary power of the prince, the electors, or ways of election are altered, without the consent, and contrary to the common interest of the people, there also the legislative is altered: For, if others, than those whom the society hath authorised thereunto, do chuse, or, in another way than what the society hath prescribed, those chosen are not the legislative appointed by the people.

Why, in such a constitution as this, the dissolution of the government, in these cases, is to be imputed to the prince, is evident; because, he having the force, treasure, and offices of the state to employ, and often persuading himself, or being flattered by others, that, as supreme magistrate, he is incapable of controul; *he, alone, is in a condition to make great advances toward such changes, under pretence of lawful authority, and has it in his hands to terrify or suppress opposers, as factious, seditious, and enemies to the government.* Whereas, no other part of the legislative, or people, is capable, by themselves, to attempt any alteration of the legislative, without open and visible rebellion, apt enough to be taken notice of; which, when it prevails, produces effects very little different from foreign conquest. Besides, the prince, in such a form of government, having the

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power of dissolving the other parts of the legislative, and, thereby, rendering them private persons, they can never, in opposition to him, or without his concurrence, alter the legislative by law, his consent being necessary to give any of their decrees that sanction. But, yet, so far as the other parts of the legislative any way contribute to any attempt upon the government, and *do either promote, or not, what lies in them, hinder such designs, they are guilty, and partake in this, which is certainly the greatest crime men can be guilty of one towards another.*

In these, and the like cases, when the government is dissolved, the people are at liberty to provide for themselves, by erecting a new legislative, differing from the other, by the change of persons or form, or both, as they shall find it most for their safety and good: For the society can never, by the fault of another, lose the native and original right it has to preserve itself, which can only be done by a settled legislative, and a fair and impartial execution of the laws made by it. But the state of mankind is not so miserable that they are not capable of using this remedy, till it be too late to look for any. To tell people they may provide for themselves, by erecting a new legislative, when, by oppression, artifice, or being delivered over to a foreign power, their old one is gone, is only to tell them, *they may expect relief when it is too late, and the evil is past cure.* This is, in effect, no more than to bid them *first be slaves, and then to take care of their liberty; and, when their chains are on, tell them, they may act like freemen.* This, if barely so, is rather mockery than relief; and men can never be secure from tyranny, if there be no means to escape it till they are perfectly under it: And, therefore, it is, that they have not only a right to get out of it, but to prevent it.

There is another way whereby governments are dissolved; and that is, when the legislative, or the prince,

prince, either of them, act contrary to their trust.—
First, The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people. The reason why men enter into society, is the preservation of their property; and the end why they chuse and authorise a legislative, is, that there may be laws made, and rules set, as guards and fences to the properties of all the members of the society, to limit the power, and moderate the dominion of every part and member of the society. For, since it can never be supposed to be the will of the society, that the legislative should have a power to destroy that which every one designs to secure by entering into society, and for which the people submitted themselves to legislators of their own making; whenever the legislators endeavour to take away, and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people, who are, thereupon, *absolved from any farther obedience*, and are left to the common refuge, which God hath provided for all men, against force and violence. Whensoever, therefore, the legislative shall transgress this fundamental rule of society; and either, by ambition, fear, folly, or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it *devolves to the people, who have a right to resume their original liberty*; and, by the establishment of a *new legislative (such as they shall think fit)* provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general, holds true also con-

cerning the supreme executor, who, having a double trust put in him, both to have a part in the legislative, and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He acts also contrary to his trust, when he either employs the force, treasure, and offices of the society, to corrupt the representatives, and gain them to his purposes; or openly pre-engages the electors, and prescribes to their choice such, whom he has, by solicitations, threats, promises, or otherwise, won to his designs; and employs them to bring in such, who have promised beforehand what to vote, and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, *what is it but to cut up the government by the roots, and poison the very fountain of public security?* For the people having reserved to themselves the choice of their representatives, as the fence to their properties, could do it for no other end, but that they might always be freely chosen, and so chosen, freely act and advise, as the necessity of the commonwealth, and the public good should, upon examination, and mature debate, be judged to require. This, those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the lawmakers of the society, is certainly as great a breach of trust, and as perfect a declaration of a design to subvert the government, as is possible to be met with. To which, if one shall add rewards and punishments, visibly employed to the same end, and all the arts of perverted law made use of to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power
they

they ought to have in the society, who thus employ it contrary to the trust went along with it in its first institution, is easy to determine; and one cannot but see, that he, who has once attempted any such thing as this, *cannot any longer be trusted.*

To this, perhaps, it will be said, that the people being ignorant, and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin: And no government will be able long to subsist, if the people may set up a new legislative whenever they take offence at the old one.— To this I answer, Quite the contrary. People are not so easily got out of their old forms, as some are apt to suggest. They are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to.

But, it will be said, This hypothesis lays a ferment for frequent rebellion. To which I answer, *First*, No more than any other hypothesis: For, when the people are made miserable, and find themselves exposed to the ill-usage of arbitrary power, cry up their governors, as much as you will, for sons of Jupiter; let them be sacred and divine, descended, or authorised from heaven; give them out for whom or what you please, the same will happen. The people generally ill treated, and contrary to right, will be ready, upon any occasion, to ease themselves of a burden that sits heavy upon them. They will wish, and seek for the opportunity, which, in the change, weakness and accidents of human affairs, seldom delays long to offer itself. He must have lived but a little while in the world, who has not seen examples of this in his time; and he must have read very little, who cannot produce examples of it in all sorts of governments in the world.

Secondly, I answer, such revolutions happen not upon every little mismanagement in public affairs.—

Great mistakes in the ruling part, many wrongs and inconvenient laws, and all the slips of human frailty, will be borne by the people without mutiny or murmur. *But, if a long train of abuses, prevarications, and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whither they are going; it is not to be wondered at, that they should then ROUZE THEMSELVES, and endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected:* And, without which, antient names, and specious forms, are so far from being better, that they are much worse, than the state of nature, or pure anarchy; the inconveniencies being all as great and as near, but the remedy farther off and more difficult.

Thirdly, I answer, that this doctrine of a power in the people of providing for their safety a-new, by a new legislative, when their legislators have acted contrary to their trust, by invading their property, is the best fence against rebellion, and the probablest means to hinder it: For rebellion being an opposition, not to persons, but authority, which is founded only in the constitutions and laws of the government; those, whoever they be, who, by force, break through, and, by force, justify their violation of them, are truly and properly rebels: For, when men, by entering into society and civil government, have excluded force, and introduced laws for the preservation of property, peace, and unity amongst themselves, those who set up force again in opposition to the laws, do *rebellare*; that is, bring back again the state of war, and are properly rebels. Which they, who are in power (by the pretence they have to authority, the temptation of force they have in their hands, and the flattery of those about them) *being likeliest to do*; the properest way, to prevent the evil, is to shew them the danger and injustice of it,

it, who are under the greatest temptation to run into it.

In both the forementioned cases, when either the legislative is changed, or the legislators act contrary to the end for which they were constituted; those who are guilty, are guilty of rebellion. For, if any one, by force, takes away the established legislative of any society, and the laws by them made, pursuant to their trust, he, thereby, takes away the umpirage, which every one had consented to, for a peaceable decision of all their controversies, and a bar to the state of war amongst them. They, who remove or change the legislative, take away this decisive power, which nobody can have, but by the appointment and consent of the people; and so destroying the authority which the people did, and nobody else can set up, and introducing a power which the people hath not authorised, they actually introduce a state of war, which is that of force without authority. And thus, by removing the legislative established by the society (in whose decisions the people acquiesced and united, as to that of their own will) they untie the knot, and expose the people anew to the state of war. And if those, who, by force, take away the legislative, are rebels, the legislators themselves, as has been shewn, can be no less esteemed so; when they, who were set up for the protection and preservation of the people, their liberties and properties, shall, by force, invade and endeavour to take them away: And, so they putting themselves into a state of war with those who made them the protectors and guardians of their peace, are, properly, and with the greatest aggravation, *rebellantes*, rebels.

But, if they, who say it lays a foundation for rebellion, mean, that it may occasion civil wars or intestine broils, to tell the people they are absolved from obedience when illegal attempts are made upon
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their liberties or properties, and may oppose the unlawful violence of those who were their magistrates, when they invade their properties contrary to the trust put in them; and that, therefore, this doctrine is not to be allowed, being so destructive to the peace of the world—they may as well say, upon the same ground, that honest men may not oppose robbers or pirates, because this may occasion disorder or bloodshed. If any mischief come in such cases, it is not to be charged upon him who defends his own right, but on him that invades his neighbours. If the innocent honest man must quietly quit all he has, for peace sake, to him who will lay violent hands upon it, I desire it may be considered, what a kind of peace there will be in the world, which consists only in violence and rapine, and which is to be maintained only for the benefit of robbers and oppressors. Who would not think it an admirable peace betwixt the mighty and the mean, when the lamb, without resistance, yielded his throat to be torn by the imperious wolf?—Polyphemus's den gives us a perfect pattern of such a peace, and such a government, wherein Ulysses, and his companions, had nothing to do, but quietly to suffer themselves to be devoured. And, no doubt, Ulysses, who was a prudent man, preached up passive obedience, and exhorted them to a quiet submission, by representing to them of what concernment peace was to mankind; and by shewing the inconveniencies which might happen, if they should offer to resist Polyphemus, who had now the power over them.

The end of government is the good of mankind; and which is best for mankind, that the people should be always exposed to the boundless will of tyranny, or that the rulers should be some times liable to be opposed, when they grow exorbitant in the use of their power, and employ it for the destruction, and not the preservation of the properties of their people?—

Nor

Nor let any one say, that mischief can arise from hence, as often-as it shall please a busy head or turbulent spirit, to desire the alteration of the government. It is true, such men may stir, whenever they please; but it will be only to their own just ruin and perdition: For, till the mischief be grown *general*, and the ill designs of the rulers become *visible*, or their attempts *sensible* to the *greater part*, the people, who are more disposed to suffer than right themselves by resistance, are not apt to stir. The examples of particular injustice or oppression of here and there an unfortunate man, moves them not; but, if they universally have a persuasion, grounded upon manifest evidence, that designs are carrying on against their liberties, and the general course and tendency of things cannot but give them strong suspicions of the evil intention of their governors, who is to be blamed for it? Who can help it, if they, who might avoid it, bring themselves into this suspicion? Are the people to be blamed, if they have the sense of rational creatures, and can think of things no otherwise than as they find and feel them? And is it not rather *their fault*, who put things into such a posture, that they would not have them thought to be as they are? I grant, that the pride, ambition, and turbulency of private men have sometimes caused great disorders in commonwealths, and factions have been fatal to states and kingdoms. But, whether the mischief hath oftener begun in the people's wantonness, and a desire to cast off the lawful authority of their rulers, or in the rulers insolence, and endeavours to get and exercise an arbitrary power over their people; whether oppression, or disobedience, gave the first rise to the disorder, I leave it to impartial history to determine. This, I am sure, whoever, either ruler or subject, by force, goes about to invade the rights of either prince or people, and lays the foundation for overturning the constitution and frame of any just government,

government, is highly guilty of the greatest crime, I think, a man is capable of, being to answer for all those mischiefs of blood, rapine, and desolation, which the breaking to pieces of governments bring on a country. And he who does it, is justly to be esteemed the common enemy and pest of mankind, and is to be treated accordingly.

That subjects or foreigners, attempting, by force, on the properties of any people, may be resisted with force, is agreed on all hands. But that magistrates, doing the same thing, may be resisted, hath *of late been denied*: As if those who had the greatest privileges and advantages by the law, had, thereby, a power to break those laws, by which alone they were set in a better place than their brethren.—Whereas, their offence is thereby the greater, both as being *ungrateful for the greater share they have by the law, and breaking also that trust which is put into their hands by their brethren.*

Whosoever uses force without right, as every one does in society who does it without law, puts himself into a state of war with those against whom he so uses it; and in that state all former ties are cancelled, all other rights cease, and every one has a right to defend himself, and to resist the aggressor.—This is so evident, that BARCLAY himself, that great assertion of the power and sacredness of kings, is forced to confess, That it is lawful for the people, in some cases, to resist their king; and that, too, in a chapter wherein he pretends to shew, that the divine law shuts up the people from all manner of rebellion.—Whereby it is evident, even by his own doctrine, that, since they may, in some cases, resist, all resisting of princes is not rebellion. His words are these:

“ But if any one should ask, Must the people then always lay themselves open to the cruelty and rage of tyranny? Must they see their cities pillaged, and laid in ashes, their wives and children exposed to the

the tyrant's lust and fury, and themselves and families reduced by their king to ruin, and all the miseries of want and oppression, and yet sit still? Must men alone be debarred the common privilege of opposing force with force, which nature allows so freely to all other creatures for their preservation from injury? I answer: Self-defence is a part of the law of nature; nor can it be denied the community, even against the king himself. But, to revenge themselves upon him, must, by no means, be allowed them: It being not agreeable to that law. Wherefore, if the king shall shew an hatred, not only to some particular persons, but sets himself against the body of the commonwealth, whereof he is the head, and shall, with intolerable ill usage, cruelly tyrannise over the whole, or a considerable part of the people, in this case the people have a right to resist and defend themselves from injury. But it must be with this caution, that they only defend themselves, but do not attack their prince: They may repair the damages received, but must not, for any provocation, exceed the bounds of due reverence and respect. They may repulse the present attempt, but must not revenge past violences: For it is natural for us to defend life and limb, but that an inferior should punish a superior, is against nature. The mischief which is designed them, the people may prevent before it be done; but, when it is done, they must not revenge it on the king, though author of the villainy. This, therefore, is the privilege of the people in general, above what any private person hath; that particular men are allowed, by our adversaries themselves (BUCHANAN only excepted) to have no other remedy but patience; but the body of the people may, with respect, resist intolerable tyranny; for when it is but moderate, they ought to endure it."

Thus far that great advocate of monarchical power allows of resistance. It is true, he has annexed two limitations

limitations to it, to no purpose. *First*, He says, it must be with reverence. *Secondly*, It must be without retribution or punishment; and the reason he gives is, because an inferior cannot punish a superior.

First, How to resist force without striking again, or how to strike with reverence, will need some skill to make intelligible. He that shall oppose an assault only with a shield to receive the blows, or in any more respectful posture, without a sword in his hand, to abate the confidence and force of the assailant, will quickly be at an end of his resistance, and will find such a defence serve only to draw on himself the worse usage. This is as ridiculous a way of resisting, as Juvenal thought it of fighting—*Where you strike, I only am beaten*. And the success of the combat will be unavoidably the same he there describes it:—

This is the *right* and *duty* of the Poor,
When cuff'd and kick'd, for *mercy* to implore;
And bless his stars, when batter'd black and blue,
That his crack'd jaws can boast *a tooth or two*!
Nay, were those jaws of every peg bereft,
Thank God Almighty, *still* the jaws are left!!

This will always be the event of such an imaginary resistance, where men may not strike again. He, therefore, who may resist, must be allowed to strike. And then let our author, or any body else, join a knock on the head, or a cut on the face, with as much reverence and respect as he thinks fit. He that can reconcile blows and reverence, may, for aught I know, desire, for his pains, a civil, respectful *judgeling* wherever he can meet with it.

Secondly, As to his second, An inferior cannot punish a superior. That is true, generally speaking, whilst he is his superior. But to resist force with
force,

force, being the state of war that levels the parties; cancels all former relation of reverence, respect, and superiority: And then the odds that remains, is, that he, who opposes the unjust aggressor, has this superiority over him, that he has a right, when he prevails, to punish the offender, both for the breach of the peace, and all the evils that followed upon it. Barclay, therefore, in another place, more coherently to himself, denies it to be lawful to resist a king in any case. But he there assigns two cases whereby a king may un-king himself. His words are—

“ What then, can there no case happen wherein the people may, of right, and by their own authority, help themselves, take arms, and set upon their king, imperiously domineering over them? None at all, whilst he remains a king. *Honour the king, and he that resists the power, resists the ordinance of God*—are divine oracles, that will never permit it. The people, therefore, can never come by a power over him, unless he does something that makes him cease to be a king: For then he divests himself of his crown and dignity, and returns to the state of a private man, and the people become free and superior, the power which they had in the *interregnum*, before they crowned him king, devolving to them again.— But there are but few miscarriages which bring the matter to this state. After considering it well, on all sides, I can find but two. Two cases there are, I say, whereby a king, *ipso facto*, becomes no king, and loses all power and regal authority over his people; which are also taken notice of by WINZERUS.

“ The first is, If he endeavour to overturn the government, that is, if he have a purpose and design to ruin the kingdom and commonwealth; as it is recorded of Nero, that he resolved to cut off the senate and people of Rome, lay the city waste with fire and sword, and then remove to some other place: And of Caligula, that he openly declared, that he

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would

would be no longer a head to the people or senate, and that he had it in his thoughts to cut off the worthiest men of both ranks, and then retire to Alexandria: And he wished that the people had but one neck, that he might dispatch them all at a blow. Such designs as these, when any king harbours in his thoughts, and seriously promotes, he immediately gives up all the care and thought of the commonwealth; and, consequently, forfeits the power of governing his subjects, as a master does the dominion over his slaves whom he hath abandoned.

“The other case is, When a king makes himself the dependant of another, and subjects his kingdom, which his ancestors left him, and the people put free into his hands, to the dominion of another: For, however perhaps it may not be his intention to prejudice the people; yet, because he has hereby lost the principal part of the regal dignity, viz. to be next and immediately under God, supreme in his kingdom; and, also, because he betrayed or forced his people, whose liberty he ought to have carefully preserved, into the power and dominion of a foreign nation. By this, as it were, alienation of his kingdom, he himself loses the power he had in it before, without transferring any the least right to those on whom he would have bestowed it; and so, by this act, sets the people free, and leaves them at their own disposal. One example of this is to be found in the Scotch Annals.”

In these cases, BARELAY, the great champion of absolute monarchy, is forced to allow, that a king may be resisted, and ceases to be a king. That is, in short, not to multiply cases, in whatsoever he has no authority, there he is no king, and may be resisted: For, wheresoever the authority ceases, the king ceases too, and becomes like other men who have no authority. And these two cases he instances in, differ little from those above mentioned, to be destructive

destructive to governments, only that he has omitted the principle from which his doctrine flows; and that is, the breach of trust, in not preserving the form of government agreed on, and in not intending the end of government itself, which is the public good and preservation of property. When a king has dethroned himself, and put himself in a state of war with his people, what shall hinder them from prosecuting him who is no king, as they would any other man, who has put himself into a state of war with them; BARCLAY, and those of his opinion, would do well to tell us. This farther I desire may be taken notice of out of BARCLAY, that he says, "*The mischief that is designed them, the people may prevent before it be done*: Whereby he allows resistance when tyranny is but in design. *Such designs as these* (says he) *when any king harbours in his thoughts, and seriously promotes, he immediately gives up all care and thought of the commonwealth*: So that, according to him, the neglect of the public good is to be taken as an evidence of such design, or, at least, for a sufficient cause of resistance. And, the reason of all, he gives in these words—*Because he betrayed or forced his people, whose liberty he ought carefully to have preserved*. What he adds, *into the power and dominion of a foreign nation*, signifies nothing, the fault and forfeiture lying in the loss of their liberty, which he ought to have preserved, and not in any distinction of the persons to whose dominion they were subjected. The people's right is equally invaded, and their liberty lost, whether they are made slaves to any of their own, or a foreign nation; and in this lies the injury, and against this only they have the right of defence. And there are instances to be found in all countries, which shew, that it is not the change of nations in the persons of their governors, but the change of government, that gives the offence. BILSON, a bishop of our church, and a great stickler

for the power and prerogative of princes, does, if I mistake not, in his *Treatise of Christian Subjection*, acknowledge, *that princes may forfeit their power, and their title to the obedience of their subjects*. And, if there needed authority in a case where reason is so plain, I could send my reader to BRACTON, FORTESCUE, and the author of *The Mirrour*, and others, writers that cannot be suspected to be ignorant of our government, or enemies to it. But, I thought HOOKER alone might be enough to satisfy those men, who, relying on him for their ecclesiastical polity, are, by a strange fate, carried to deny those principles upon which he builds it. Whether they are herein made the tools of cunninger workmen, to pull down their own fabric, they had best look.— This I am sure, their civil policy is so new, so dangerous, and so destructive to both rulers and people, that as former ages never could bear the broaching of it, so, it may be hoped, those to come, redeemed from the impositions of these Egyptian under-taskmasters, will abhor the memory of such servile flatterers, who, whilst it seemed to serve their turn, resolved all government into absolute tyranny, and would have all men born to, what their mean souls fitted them for, slavery.

Here, it is like, the common question will be made, Who shall be judge, whether the prince or legislative act contrary to their trust? This, perhaps, ill-affected and factious men may spread amongst the people, when the prince only makes use of his due prerogative. To this I reply, *The people shall be judge*: For, who shall be judge whether his trustee or deputy acts well, and according to the trust reposed in him, but he who deposes him, and must, by having deputed him, have still a power to discard him, when he fails in his trust? If this be reasonable in particular cases of private men, why should it be otherwise in that great moment, where the

the welfare of millions is concerned, and also where the evil, if not prevented, is greater, and the redress very difficult, dear, and dangerous?

But, rather, this question (Who shall be judge?) cannot mean, that there is no judge at all: For, where there is no judicature on earth, to decide controversies amongst men, GOD in heaven is judge.—He alone, it is true, is judge of the right. *But every man is judge for himself*, as in all other cases, so in this, whether another hath put himself into a state of war with him, and whether he should appeal to the Supreme Judge, as Jephtha did.

If a controversy arise betwixt a prince and some of the people, in a matter where the law is silent or doubtful, and the thing be of great consequence, *I should think, the proper umpire, in such a case, should be the body of the people: For, in cases where the prince hath a trust reposed in him, and is dispensed from the common ordinary rules of the law, there, if any men find themselves aggrieved, and think the prince acts contrary to, or beyond that trust, who so proper to judge as the body of the people (who, at first, lodged that trust in him) how far they meant it should extend?* But, if the prince, or whoever they be in the administration; decline that way of determination, the appeal then lies no where but to heaven; force between either persons, who have no known superior on earth, or which permits no appeal to a judge on earth, being properly a state of war, wherein the appeal lies only to heaven; and, in that state, the injured party must judge for himself, when he shall think fit to make use of that appeal, and put himself upon it.

To conclude: The power that every individual gave the society, when he entered into it, can never revert to the individuals again, as long as the society lasts, but will always remain in the community; because, without this, there can be no community, no commonwealth, which is contrary to the original agreement:

agreement: So, also, when the society hath placed the legislative in any assembly of men, to continue in them and their successors, with direction and authority for providing such successors, the legislative can never revert to the people whilst that government lasts; because, having provided a legislative, with power to continue for ever, they have given up their political power to the legislative, and cannot resume it. But, if they have set limits to the duration of their legislative, and made this supreme power in any person, or assembly, temporary; or, else, when, by the miscarriages of those in authority, it is forfeited; upon the forfeiture, or at the determination of the time set, it reverts to the society, and the people have a right to act as supreme, and continue the legislative in themselves, or erect a new form, or under the old form, place it in new hands, as they think good.

FINIS.

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